

1909-057 Chancery Causes: Minda Wagner vs. Samuel Wagner
Lee Co.

Benfield, Astor, Blevins, Hopkins

CA-Divorce
T-Migration
Vices

IN THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

Minda Wagner, Complainant,

vs.

Samuel Wagner, Defendant.

To the Hon. H. A. W. Skeen, Judge of the Circuit Court of Lee County, Virginia:-

Your complainant, Minda Wagner, respectfully represents:-

That on the ____ day of ____, 1898, about twelve years ago, your complainant, whose maiden name was Minda Benfield, was lawfully married in Lee County, Virginia, to the defendant, Samuel Wagner; and,

That continuously from the date of said marriage until the ____ day of ____ 1906, your complainant and the said defendant lived together as man and wife near St. Charles, Lee County, Virginia; and

That the said Samuel Wagner, the defendant, has wilfully deserted and abandoned your complainant for a period of more than three years: that is to say, on the ____ day of ____ 1906, more than three years ago, the said Samuel Wagner voluntarily, wilfully and without justification left his home in this county and went to the State of Kentucky and has never returned and lived with your complainant as her husband; and,

That the said Samuel Wagner has since the aforesaid marriage committed adultery; that is to say, on the ____ day of ____, 1906, the said defendant was seen with a certain woman of notoriously lewd character by the name of Lize Asher in the woods, near Big Branch, in ~~this county~~ Lee County, Virginia; that the said defendant did then and there have the said Lize Asher behind a log in said woods, and did then and there have carnal, illicit intercourse with the said Lize Asher; and,

That your complainant first heard of this act of adultery about three months ago, to-wit, on the ____ day of June, 1909; that she has not cohabited with the said defendant since that time, nor in fact for a ~~xx~~ a period of more than three years next before the institution of this suit; and,

That at the time of the institution of this suit it had not

2.

been five years since the said adultery occurred, and that it was not committed by the procurement or connivance of your complainant; and,

That your complainant has resided and has been domiciled in this state ever since the aforesaid marriage, and for more than one year next before the institution of this suit, and that she is now domiciled and now resides near St. Charles, Lee County, Virginia; and,

That your complainant last cohabited with the said defendant near St. Charles, Lee County, Virginia; x

In consideration whereof, and forasmuch as your complainant is remediless in the premises save in a court of equity, your complainant prays that the said Samuel Wagner may be made a party defendant to this bill, and required, but not on oath, to answer the same, the oath being hereby waived; that a divorce from the bond of matrimony which was created by the aforesaid marriage be decreed her; and that your complainant may have all such further, and other, and general relief in the premises as the nature of her case may require, or to equity shall seem meet.

Minda Wagner, Complainant.

R. E. L. Chumbley, p. q.

Min da Wagne

vs- } Bill

Samuel Wagne

Filed Aug. 18, 1909.

W. E. Ewing,

1909 2nd August Rules

Contd for O.P.

1st Sept. Rules

"

O.P. completed &

cause set for hearing.

Costs:

Clk \$4.19

~~Att~~

Fax 1.50

Atty. 15.00

Printer

Depo.

Minda Wagner, Plaintiff,

vs.

) DECREE.

Samuel Wagner, Defendant.

This cause came this day to be heard upon the complainant's bill and the exhibits filed therewith; and the depositions taken on behalf on the compalinant before W. K. Hopkins, a Commissioner in Chancery for the Circuit Court of Lee County, Virginia: and was argued by counsel.

On consideration whereof, and it appearing to the court independently of the admissions of either party in the pleadings or ~~xxx~~ otherwise, that the said parties were lawfully married on the ____ day of ____, 1897; that since the date of said marriage, to-wit, on the ____ day of ____, 1906, more than three years prior to the date of the institution of this suit, the said defendant, Samuel Wagner, did wilfully, voluntarily, and without justification desert his wife, the said Minda Wagner, and leave his home ^{Lee County, Va.} ~~this county~~ and go to the State of Kentucky, from which state he has never returned to his home in this, Lee County, Virginia, nor lived with his wife, the said complainant; that at divers times before the institution of this suit, to-wit, on the ____ day of ____, 1906, and on the ____ day of ____, 1906, the said Samuel Wagner did commit acts of adultery with one, Lize Asher; that said acts of adultery were not committed through the procurement or connivance of the said complainant, Minda Wagner; that the said complainant has not co-habited with the said defendant since she learned of the said acts of adultery; ~~that~~ and that the said complainant now resides and is domiciled in Lee County, Virginia, and has resided and been domiciled in Lee County, Virginia, for a period of more than one year next before the commencement of this suit:

Now, therefore, the court doth adjudge, order and ~~xxxxxx~~ decree that the said Minda Wagner and Samuel Wagner be divorced from the bond of matrimony created by the aforesaid marriage, and that the said marriage be , and the same is hereby dissolved and annulled.

And it is ordered that the said Minda Wagner pay the costs of

this suit; and, nothing further remaining to be done in this suit,
it is ordered that the same be stricken from the docket.

Minda Wagner

vs. } Deen

Samuel Wagner

Entered in C.O.B.

8, page 496

Entered

at New Salem

9-8-1909

The depositions of Lena Blevins and Harvey Benfield, taken before me, W. K. Hopkins, a Commissioner in Chancery for the Circuit Court, of Lee County, Virginia, on this the 16th day of August, 1909, to⁴ read in evidence in behalf of the plaintiff in a certain suit in equity now depending in the Circuit Court of Lee County, Virginia, in which Minda Wagner is plaintiff and Samuel Wagner is defendant.

Present for the plaintiff, R. E. L. Chumbley; no one for the defendant.

Lena Blevins, the first witness for the plaintiff, of lawful and duly sworn, ~~xxxxxxxxxxxxxxx~~ deposes as follows:-

Q. 1. Give your name, age, and residence.

A. Lena Blevins. I am 25 years old. I live near St. Charles, in Lee County, Va. I have lived here about 10 years.

Q. 2. Are you acquainted with Samuel Wagner the defendant in this suit? And if you say that you are, please state how long you have known him.

A. Yes, sir, I am. I have known him for 12 years.

Q. 3. Are the plaintiff and defendant now living together as man and wife?

A. No, sir. He left her more than 3 years ago. He went from here to some place in Kentucky when he left her and I don't know of his being back since.

Q. 4. If before this when they were living together as man and wife if you ever saw any improper conduct in Mr. Wagner, please state what it was and when.

A. I saw him and Lize ~~Axxxxxxx~~ Asher together in the woods On Big Brannh in this county about three years ago. They were lying down together right close to the big road behind a log. I knew them both. I don't think that they saw me.

Q. 5. What was the general reputation in your neighbourhood of this Asher woman?

A. Everybody said that she was a mean woman.

Q. 6. Does the plaintiff now live in this county? And if you say that she does, please state how long she has lived in this county.

A. She lives on Rock Lick in this county. She has lived in this county all of her life.

Q. 7. When, if ever, did you tell Minda Wagner that you had seen her husband and this Asher woman together?

A. I first told her about it some two months ago.
 Q. 8. *Was this conduct on the part of Wagner with the Asher woman brought about that you knew of the prosecution or conviction of Minda Wagner? No, sir.*
 And further this witness sayeth not.

.....*Arline Blessing*.....

Harvey Benfield, another witness for the plaintiff, of lawful age and first being duly sworn, deposes as follows:-

Q. Give your name, age, and residence.

A. Harvey Benfield. I am 26 years old. I live near St. Charles, Lee County, Va.

Q. 2. Do you know Samuel Wagner, the defendant in this suit? And if you say that you do, please state how long you have known him.

A. Yes, sir, I know him. I have known him for about 12 years.

Q. 3. Do you know Minda Wagner, the plaintiff.

A. Yes, sir. I have known her all of my life.

Q. 4. Are Samuel Wagner and Minda Wagner now living together as husband and wife?

A. No, sir. They haven't lived together for more than three years. Samuel Wagner left here and went to Kentucky about three years ago, or longer, and they haven't lived together since.

Q. 5. Please state whether you ever saw any improper conduct on Wagner's part when they were living together as husband and wife? And *if* say that you did, please state when and ^{where} it was and give all of the particulars that you remember about it.

A. I saw him and Lize Asher together in the woods on Big Branch some time before he left to go to Kentucky. I was coming along a path in the woods and when they saw me they hid behind a tree. They were in some thick bushes.

Q. 6. What was the moral reputation of this Asher woman in the community?

A. She was called one of the meanest whores in that country.

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Q. 7. When did you first tell Minda Wagner, if you ever did, about this occurrence?

A.. I first told her about three or four months ago when she was talking about suing him for a divorce.

Q. Does Mindd Wagner now live in this county? And if you say that she does, please state how long she has lived here.

A. Yes, sir. She lives near St. Charles. She has lived here all of her life.

And further this witness sayeth not.

Harvey Benfield
.....

Va., Lee County, to-wit:-

I, W. K. ~~Hxxxxxx~~ Hopkins, a Commissioner in Chancery for the Circuit Court of Lee County, Virginia, do hereby certify that the foregoing depositions of Lena Blevins and Harvey Benfield were duly taken, reduced to writing, and signed by the witnesses in my presence this 16th day of August, 1909.

Given under my hand this 16th day of August, 1909.

W. K. Hopkins
.....

Commissioner in Chancery.

Minda Wagner

vs. Olff's Deputies.

Samuel Wagner

Received by mail in
good condition and filed
in this the 18th day of
August, 1909.

H. C. D. Ewing,
Clerk.

Minda Wagner, Plaintiff,

vs.

AFFIDAVIT

Samuel Wagner, Defendant.

State of Virginia, County of Lee, to-wit:-

This day W. K. Hopkins personally appeared before me, R. E. L. Chumley, a Notary Public, in and for the county and state aforesaid, in ~~my~~ county aforesaid, and made oath that Samuel Wagner, the above named defendant, is not a resident of this state.

Given under my hand this 20th day of July, 1909

R. E. L. Chumley, N. P.

Manda Wagner
vs. Affidavit
Samuel Wagner

Filed July 21, 1909
H. P. Ewing,
Clerk.

RECEIVED N 6

In the Clerk's Office of the Circuit Court of the county of Lee, on the 21st
 day of July, 1909

Minda Wagner

Plaintiff

against

Samuel Wagner

Defendant

The object of this suit is to obtain a divorce a vinculo
matrimonii

And an affidavit having been made and filed that the defendant

Samuel Wagner

is ^anot resident of the State of Virginia, it is ordered that he do appear here within fifteen days
 after due publication hereof, and do what may be necessary to protect his interest in this suit. And it is
 further ordered that a copy hereof be published once a week for four weeks in the Pennington News
Lee County and that a copy be posted at the front door of the Courthouse of this county as prescribed

by law.

R. C. L. Chumbley

A copy—Teste:

p. q.

J. A. S. Hyatt Clerk.

Minda Wagner

vs.

}

ORDER OF
PUBLICATION

Samuel Wagner

Virginia Lee County, to wit
J. A. S. Hyatt, D. Clerk
of the Circuit Court for
the County aforesaid
in the State of Virginia
do hereby certify that
I posted a true copy
of the within order
of publication
at the front door
of the Court house
of said County on
this day.

Given under my
hand this the 21st
day of July 1909.

J. A. S. Hyatt
D. C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

Samuel Wagner

CHANCERY

IN

CHANCERY

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on the *3rd* Monday in *Aug.*, 190*9*, to answer a bill in chancery exhibited against *him*

in our said Court by Minda Wagner

Rules

To

CHANCERY

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *21st*

day of *July*, 190*9*, and 1 *34th* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk

_____, Clerk

Minda Wagner

VS

SUBPCENA
IN
CHANCERY

Samuel Wagner

Chumblay, p. q.

To 2nd Aug, Rules
Lee Circuit Court
1909.

ORDER OF PUBLICATION.

In the Clerk's Office of the county
Lee, on the 21st. day of July,
1909.

Minda Wagner, Plaintiff,
against
Samuel Wagner, Defendant,
In Chancery.

The object of this suit is to obtain a divorce a vinculo matrimonii.

And an affidavit having made and filed that the defendant, Samuel Wagner is not a resident of the State of Virginia, it is ordered that he do appear here within fifteen days after due publication of, and do what may be necessary to protect his interest in this suit. And it is further ordered that a copy hereof be published once a week for four weeks in the Pennington News and that a copy be posted at the front door of the Courthouse of this county as prescribed by law

A copy Teste:

J. A. G. Hyatt, D. Clerk.

R. E. L. Chumbley, p. q.

I, W. K. Hopkins, the editor and proprietor of the Pennington News, a newspaper printed in the town of Pennington Gap, Lee County, Virginia, do hereby certify that the foregoing order of publication was duly published in the said newspaper, for four successive weeks, from and after the 13th day of ^{July}~~August~~, 1909.

W. K. Hopkins, Editor
The News